grains proved fatal.' This work gives the dosage when used intravenously or intramuscularly at ½ to 2 grains given every alternate day and as a dosage internally 'as a diaphoretic or expectorant it may be given in quantities of from 1/40 to ⅛ grain. If used as an emetic the dose usually is about ½ grain.'

"The conclusion here is inescapable both that the label in question is false and misleading and that the drug is dangerous to health when used in the dosage prescribed on the label. While it may seem that the use of this emetic in some amount may be beneficial in cases of drunkenness because of the fact that it clears the stomach, the fact is that alcohol is absorbed into the blood stream within 20 minutes to half an hour after being taken into the stomach and, therefore, the emetic could not usually affect the action of the alcohol.

"The only evidence offered by the intervenor was that given by an official of the claimant to the effect that the powders in question have been sold for upwards of 60 years; that over 50,000 of the powder packages have been sold yearly for the last 10 years and that not a single case of harm or injury has ever been reported by an one to the manufacturers. Objection was raised to the reception of all this testimony. It was received subject to be stricken, if the court later so decided. It is believed that the testimony as to the number of packages of the powder that had been sold and the period of years over which it had been sold is competent and the ruling as made stands. However, the testimony that no complaints had been received is incompetent. *Goldstein* v. *United States*, 63 F. (2d) 609. It is clearly hearsay.

"The intervenor urges that the testimony on behalf of the intervenor is not outweighed by the testimony given by the experts called by the Government. We are to bear in mind in this connection that the only testimony now in the record offered by the intervenor is with reference to the number of packages sold and the period of time over which they were sold. While the intervenor cites numerous cases in which consideration had been given to the weight of expert testimony, none of these hold that it is to be given no weight. The weight of such testimony is for the court to determine. These cases present somewhat comparable situations where physicians have testified as experts: *U. S.* v. *Lee*, 107 F. (2d) 522, cert. denied 309 U. S. 654; *U. S.* v. *Dr. David Roberts Vet. Co.*, 104 F. (2d) 785; *U. S.* v. *American Laboratories*, 222 F. 104; *U. S.* v. *W. B. Wood Mfg. Co.*, D. C. E. D. Mo., decided May 12 1921; *Eleven Gross Packages etc.* v. *United States*, 233 F. 71; *Chichester Chemical Co.* v. *United States*, supra; *Hall* v. *United States*, 267 F. 795. The testimony of these physicians is largely based on their studies as physicians but not upon the actual use of the article in question. Certain of these physicians have testified to personal observation of the use of the drug in question. Testimony of these men is not to be entirely disregarded because they testified as experts. As against the testimony that a large number of packages of this drug have been sold during many years, we have the testimony of all of the five physicians that the drug itself is not a cure for drunkenness and that its use in the dosage prescribed is dangerous to health. Each of these physicians went into great detail in explaining the nature of the drug and its reactions upon the human system when taken internally.

"It is not necessary to decide whether the drug when taken in the dosage of any specific number of grains less than 3.2 may properly be taken in the treatment of drunkenness or whether such dosage would be dangerous to health. I do decide that the articles in question are misbranded, since the labels thereon are false and misleading, because antimony and potassium tartrate in the dosage of 3.2 grains (the average in the articles analyzed) is not a 'cure, mitigation, or treatment' for drunkenness as purported to be and also that it is misbranded, because the use of the drug in the dosage of 3.2 grains is dangerous to health.

"Libelant is entitled to an order adjudging and decreeing that the articles of drug product aforesaid be condemned according to the provisions of the statute."

On August 12, 1941, judgment of condemnation was entered and it was ordered that the product be destroyed, with the exception of 3 dozen boxes that were ordered turned over to the Food and Drug Administration for official use. Through inadvertence, the entire lot of seized goods was destroyed.

606. Misbranding of Alcoban. U. S. v. 7 Packages of Alcoban and 8 other seizures of Alcoban. Decrees of condemnation and destruction. (F. D. C. Nos. 3832, 4097, 4794, 4795, 5266, 5274, 5445, 5793 to 5797, incl., 5875. Sample Nos. 22375-E, 23106-E to 23109-E, incl., 44738-E, 44770-E, 44771-E, 55721-E, 60189-E, 60545-E, 61741-E, 65083-E, 73420-E.)

This product contained emetine hydrochloride and would be dangerous to health when used as directed or suggested in the labeling. Furthermore, its

labeling bore false and misleading claims regarding its efficacy in overcoming the liquor habit.

Between February 19 and September 23, 1941, the United States attorneys for the Districts of Oregon and Montana, and the Western District of Missouri, filed libels against 119 packages of Alcoban at Portland, Oreg., 12 packages at Missoula, Mont., and 9 packages at Kansas City, Mo., alleging that the article had been shipped in interstate commerce within the period from on or about July 10, 1940, to on or about August 25, 1941, by the Maffett Sales Corporation from Seattle, Wash.; and charging that it was misbranded. On May 23, August 2, and September 23, 1941, the United States attorneys for the District of Colorado and the Northern District of California filed libels against 123 boxes of Alcoban at Denver, Colo., and 229 packages of Alcoban at San Francisco, Calif., which had been consigned by the Maffett Sales Corporation, alleging that the article had been shipped in interstate commerce from Seattle, Wash., within the period from on or about November 19, 1940, to August 20, 1941; and charging that it was misbranded.

Analyses of samples of the article showed that it consisted of capsules containing emetine hydrochloride in amounts varying from 0.05 to 0.18 grain of ephedrine hydrochloride, pilocarpine hydrochloride, and milk sugar.

The article was alleged to be misbranded in that it would be dangerous to health when used in the dosage and with the frequency and duration prescribed, recommended, and suggested in the following labeling: "Dosage A. When Alcoban is dissolved in each Separate alcoholic drink—determination of correct dosage: 1. The contents of 1 capsule should be given every 15 to 20 minutes until 3 capsules are taken. If vomiting occurs, this should be regarded as the proper dose and the treatment may be so given at the rate of 6 capsules (6 drinks) every third day. 2. If no vomiting occurs on the 1 capsule per drink basis as above described, double the dosage to 2 capsules per drink. Wait one hour and administer only 2 such additional drinks. If vomiting occurs, then the correct dosage is 2 capsules per drink and this treatment may be given at the rate of 6 capsules (3 drinks) every third day. * * * B. When Alcoban is dissolved in bottles of alcoholic drink—determination of correct dosage: The bulk liquor should be prepared on the basis of 1 capsule per full size drink i. e., 2 capsules per pint of beer, 4 capsules per pint of wine or 6 capsules per pint of whiskey, gin, rum or other hard liquor. 1. Administer the drink at the equivalent of 1 capsule every 15 minutes until an amount of liquor containing 3 capsules of Alcoban has been consumed. If vomiting occurs, this should be regarded as the proper dose and the treatment may be so given at the rate of 6 capsules (6 drinks) every third day. 2. If no vomiting occurs on the 1 capsule per drink basis as above described, increase the dosage to 2 capsules per drink. Wait one hour and administer only 2 such additional drinks. If vomiting occurs, then the correct dosage is 2 capsules per drink and this treatment may be given at the rate of 6 capsules (3 drinks) every third day."

It was alleged to be misbranded further in that the statement on the carton "An aid in curbing the liquor habit" and statements in the circular which represented that it would be effective to curb the liquor habit were false and misleading since it would not be an appropriate or effective treatment for curbing the liquor habit.

Between April 17 and November 7, 1941, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

Nos. 607 and 608 report the seizure and disposition of drugs which would be dangerous to health when used in the manner recommended and suggested in the labeling, which recommended the introduction of the drug into the pregnant uterus.

607. Misbranding of Leunbach' Paste. U. S. v. 4 Packages of Leunbach' Paste, Complete Outfit; and 4 Packages of Leunbach' Paste Refill Tube (and 5 other seizure actions against Leunbach' Paste, Complete Outfit; and Leunbach' Paste Refill Tube). Default decree of condemnation and destruction with respect to one seizure. Remaining five seizure actions ordered removed and consolidated. Answers withdrawn and judgment of condemnation entered; product ordered delivered to Government. (F. D. C. Nos. 2668, 2674, 2676, 2826, 2827. Sample Nos. 5032-E, 5033-E, 20127-E, 28933-E, 28934-E, 32419-E, 32420-E, 33525-E.)

Between August 23 and December 30, 1940, the United States attorneys for the District of Columbia, the Southern District of Ohio, the Middle District of Pennsylvania, the Southern District of California, and the Northern District of Georgia filed libels against the following quantities of Leunbach' Paste